

COLLEGE OF PHYSICIANS & SURGEONS OF ALBERTA

IN THE MATTER OF  
A HEARING UNDER THE *HEALTH PROFESSIONS ACT*,  
RSA 2000, c. H-7

AND IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF DR. MOHAMMED SAYEED

**DECISION OF THE HEARING TRIBUNAL OF  
THE COLLEGE OF PHYSICIANS  
& SURGEONS OF ALBERTA  
REGARDING SANCTIONS**

## I. INTRODUCTION

1. The Hearing Tribunal held a hearing into the conduct of Dr. Mohammed Sayeed on November 17, 2021. The Hearing was held virtually on Zoom. A prior hearing for Dr. Sayeed was held on February 8, 2021 where Dr. Sayeed admitted to all allegations and to unprofessional conduct. The present hearing was held to hear submissions on sanction from the parties.
2. At the February 8, 2021 hearing, Dr. Sayeed admitted to the following allegations and that his conduct constituted Unprofessional Conduct:
  - A. During the period of 2016, you had an inappropriate sexual relationship with your vulnerable patient, [REDACTED], contrary to the College of Physicians and Surgeons of Alberta's (the College) Standard of Practice regarding Sexual Boundary Violations;
  - B. For 2017 and 2018 you reported to the College on your annual renewal information form that you had not engaged in a sexual or inappropriate personal relationship with a patient when you knew that such answer was false;
  - C. During the period of July 2016 to June 2018 you did fail to report your inappropriate sexual relationship with your patient, [REDACTED] contrary to the College's Standard of Practice regarding Self-Reporting.
3. The Hearing Tribunal found that Allegations 1 through 3 were factually proven and that the conduct constituted Unprofessional Conduct.
4. The members of the Hearing Tribunal were:

Dr. Don Yee of Edmonton as Chair;  
Dr. Vonda Bobart of St. Albert; and  
Ms. June MacGregor of Edmonton (public member).
5. Ms. Katrina Haymond acted as independent legal counsel for the Hearing Tribunal.
6. Also in attendance at the hearing were:

Mr. Craig Boyer, legal counsel for the Complaints Director;  
Dr. Mohammed Sayeed;  
Ms. Karen Pirie, legal counsel for Dr. Sayeed.

## II. PRELIMINARY MATTERS

7. Neither party objected to the composition of the Hearing Tribunal or its jurisdiction to proceed with the hearing.
8. There were no matters of a preliminary nature.
9. There was no application to close the hearing.
10. Counsel for the Complaints Director explained that given the sensitive nature of the matters in issue that he would refer to the complainant as “the patient” for his submissions.
11. The Hearing Tribunal was provided the following documents in advance of the hearing:
  - a. The agreed sanction exhibit book;
  - b. The signed joint submission agreement.

## III. EVIDENCE

12. By agreement, the following Exhibits were entered into evidence during the hearing:

**Exhibit 2:** Agreed Sanction Exhibit book containing tabs 1 through 6:

**Tab 1:** February 17, 2020 report from the Alliance Assessment Center

**Tab 2:** July 26, 2019 PROBE program: Professional/Problem-based ethics certificate of completion

**Tab 3:** July 26, 2019 PROBE Program – Evaluation and Assessment Report

**Tab 4:** June 7, 2021 Certificate of Professional Conduct from the College of Physicians and Surgeons of Saskatchewan

**Tab 5:** July 28, 2021 Letter from B. Senger, RPN, Director of the Physician Support Programs of the Saskatchewan Medical Association

**Tab 6:** March 31, 2021 Impact statement from [REDACTED]

**Exhibit 3:** signed Joint Submission agreement

## **IV. SUBMISSIONS**

### **Counsel for the Complaints Director**

13. Mr. Boyer advised that the parties were proceeding by agreement. The Joint Submission Agreement outlined the sanction jointly proposed by the parties, which included suspension of Dr. Sayeed's practice permit for 19 months, a \$5000.00 fine and two-thirds of the costs of the investigation and hearing.
14. Mr. Boyer pointed out new documents in Exhibit 2 since the original decision was issued in March 2021. There is the multidisciplinary assessment report from the Alliance Assessment Centre [p 1, Exhibit 2]. Mr. Boyer explained this is a facility used often by the CPSA for assessment purposes in cases where there is a sexual boundary violation.
15. Mr. Boyer explained the Alliance assessment is a multi-disciplinary evaluation meant to advise on factors such as treatment, an understanding of factors that led to the boundary violation, the need for treatment therapy, and risk for the event recurring. The evaluation was done by a neuropsychologist (Dr. Strutt) and forensic psychiatrist (Dr. Hobday).
16. Mr. Boyer reviewed the certificate of professional conduct provided by the College of Physicians and Surgeons of Saskatchewan [p 22, Exhibit 2]. Dr. Sayeed was struck from CPSS register from September 14, 2018-April 9, 2020. In total, Dr. Sayeed was out of practice in Saskatchewan for 19 months.
17. Mr. Boyer summarized the conditions presently set on Dr. Sayeed's Saskatchewan practice permit [p 25-26, Exhibit 2]. These include: no solo practice, not to work more than 25 hours a week or see more than 20 patients per day, having an approved chaperone present for female patient encounters, an ongoing therapy requirement supervised by the CPSS physician health monitoring program, repeat cognitive testing, having office signage explaining the chaperone requirement, and unannounced practice inspections.
18. Mr. Boyer pointed out that cognitive testing was done and sent to the CPSS earlier this year before the CPSS professional conduct certificate was issued, indicating the testing did not create any new concerns or changes in practice.
19. Mr. Boyer explained that Dr. Sayeed's clinic is geographically located on the Saskatchewan side of Lloydminster and therefore the CPSA would not be performing unannounced practice visits. However, if Dr. Sayeed were to have a future clinic located on the Alberta side of Lloydminster or elsewhere in Alberta, the practice visit condition would apply and be

executed by the CPSA. This would be consistent with the conditions that are currently imposed by the CPSS.

20. Mr. Boyer pointed out the impact statement from the patient in Exhibit 2 [p 30, Exhibit 2].
21. Mr. Boyer presented a Brief of Law on Joint Submissions. He explained that the cases establish that a decision maker such as a hearing tribunal should give considerable deference to a joint submission. He stated joint submissions should not be rejected unless they are manifestly unjust or inappropriate to accept.
22. Mr. Boyer submitted the joint sanction does address the principles of deterrence for both Dr. Sayeed and the medical profession at large plus rehabilitation and therefore provides an appropriate sanction for this case. He referenced *Jaswal v. Medical Board of Newfoundland* and pointed out that Dr. Sayeed has had no prior disciplinary history with his regulatory bodies or discipline orders made against him. He stated that Dr. Sayeed was out of practice in Saskatchewan for 19 months and due to the undertaking he has with the CPSA he has not practiced in Alberta since December 2018. He gave an undertaking to withdraw from his practice seeing Alberta patients and practicing in Alberta, and he did not ask to be relieved of that undertaking until the present matter is concluded.
23. Mr. Boyer summarized some relevant case law. Dr. Postnikoff was an Alberta psychiatrist who was found guilty of unprofessional conduct by a hearing tribunal after having a sexual relationship with a patient and failing to report the relationship in his annual Renewal Information Form (RIF). He was responsible to pay a \$5000 fine along with two-thirds of the cost of the investigation and hearing. Dr. Postnikoff retired from practice and was not given any further sanction.
24. Dr. Garbutt was a family physician who was found guilty by a hearing tribunal of unprofessional conduct after he had a sexual relationship with a patient and failed to self-report the relationship to the CPSA. He was ordered to pay two-thirds of the cost of the investigation and hearing and a \$5000 fine. As Dr. Garbutt had retired from practice at the time of his hearing, he signed an agreement that he would not seek reinstatement of his Alberta practice permit or seek licensure in any other jurisdiction.
25. Mr. Boyer stated he cited the cases of Drs. Postnikoff and Garbutt to demonstrate the proposed fine for Dr. Sayeed is appropriate and in line with these previous cases. Dr. Sayeed's case is similar to Drs. Garbutt and Postnikoff in that it involves a boundary violation and providing false answers to the annual RIF.
26. Mr. Boyer explained the proposed 19-month suspension takes into consideration the time Dr. Sayeed was out of practice in Saskatchewan.

This length of time coincides with the time he was struck from the CPSS register. Mr. Boyer stated Dr. Sayeed should be given credit for that suspension given the period of time he already has been out of practice in Alberta. He stated the conditions on Dr. Sayeed's Alberta practice permit should mirror the conditions on his Saskatchewan permit. Mr. Boyer suggested that Dr. Sayeed would provide consent for the CPSA Physician Health Monitoring Program to receive information from their CPSS counterpart regarding his ongoing health and fitness to practice. This would ensure that the public in both Saskatchewan and Alberta are equally served through the conditions that are imposed.

27. Mr. Boyer summarized the monetary fine of two-thirds the cost of the investigation and hearing can be made in payments over a 12-month period. He also pointed out the Hearing Tribunal has jurisdiction if future issues or disagreements arise.
28. Mr. Boyer submitted the agreed sanction does provide a consistent message to the profession and that the period of suspension is consistent with previous cases involving physicians who had sexual relationships with their vulnerable patient.
29. Mr. Boyer acknowledged that Dr. Sayeed's conduct pre-dates the zero tolerance change in the Health Professions Act on April 1, 2019. While there is this change in the applicable legislation, he pointed out there was no change in the applicable case law. He pointed out that the CPSA received a complaint into this matter before the legislation changed and the *Act to Protect Patients* statute became law.
30. Mr. Boyer stated that although section 82 of the *Health Professions Act* restricts the imposition of gender-based conditions, this is only when there has been a finding of sexual abuse or sexual misconduct in accordance with the amendments to the HPA that became effective April 1, 2019. Complaints filed before April 1, 2019 are resolved based on the law that previously existed. He explained one of the end provisions in the *Act to Protect Patients* states that a complaint that is received before April 1, 2019 is finished under the law as it existed prior to that date. Therefore the Tribunal is not constrained in ordering a chaperone condition for female patients because the restriction on a practice condition that is gender-based is not applicable.
31. Mr. Boyer explained the PROBE program is also used by the CPSA for education and rehabilitation of sexual boundary violators.
32. Mr. Boyer concluded by submitting the agreed sanction is consistent with the law and is not manifestly unjust and therefore the Tribunal should accept it. He submitted the sanction is a significant and firm outcome for the conduct that has been found to be proven.

### **Counsel for Dr. Sayeed**

33. Ms. Pirie stated Dr. Sayeed has always been cooperative with the CPSA and CPSS with respect to this matter. She stated Dr. Sayeed has insight and remorse and has done a lot of work to earn back the trust of the CPSA and CPSS.
34. Ms. Pirie submitted the effort to mirror the proposed practice conditions with Dr. Sayeed's CPSS practice conditions is appropriate and that Dr. Sayeed is in full agreement with the agreed sanction.
35. Ms. Pirie concluded the Tribunal should give deference to accept the joint sanction submission.

### **Questions from the Hearing Tribunal**

36. The Tribunal adjourned to consider the Joint Submission Agreement. Following the Tribunal's initial deliberations, the Tribunal asked the parties to elaborate on their rationale behind the proposed 19-month suspension and provide further applicable case law.
37. Mr. Boyer cited the cases of Drs. Maritz and Bhardwaj. Dr. Maritz was found guilty by a hearing tribunal of having had a sexual relationship with a patient. There were two boundary violations with the second being Dr. Maritz continuing the relationship while he was supposed to be under monitoring for the first boundary violation. Dr. Maritz falsely answered his annual renewal form during this time. The Hearing Tribunal imposed an 18-month suspension and denied the CPSA's request to revoke Dr. Maritz's practice permit. The events of this case pre-dated Bill 21. In an appeal to College Council, the 18-month suspension was affirmed.
38. Dr. Bhardwaj was found by a hearing tribunal in 2018 to be guilty of having sexual relationships with four vulnerable patients. This case also pre-dated Bill 21: *An Act to Protect Patients*. Given the circumstances of the case, the Tribunal ordered the revocation of Dr. Bhardwaj's practice permit. Mr. Boyer indicated Dr. Sayeed's case differs from Dr. Bhardwaj's in that Dr. Sayeed's conduct involved one patient and occurred in a limited period of time whereas Dr. Bhardwaj's conduct involved four patients and occurred over a prolonged period of time.
39. Mr. Boyer explained suspension terms for cases involving exploitation of vulnerable patients are on the high end of length (i.e. more than 12 months). He stated the proposed 19-month suspension for Dr. Sayeed aims to mirror the time he was off of the CPSS register.
40. Ms. Pirie clarified that Dr. Sayeed was suspended for a total of 9 months in Saskatchewan where his license could not be restored. Taking into consideration the time it took for him to satisfy the conditions he needed

to re-apply for licensure such as the PROBE course and Alliance assessment, the total time off of the CPSS register was longer.

41. Mr. Boyer also cited the case of Dr. Roberts who was a psychiatrist found guilty in 2008 of having an inappropriate sexual relationship with one of his patients and eventually they married. As a result, Dr. Roberts was struck from the College register. He stated the psychotherapeutic aspect of Dr. Roberts' case does not exist in Dr. Sayeed's case. The patient that Dr. Sayeed had a sexual relationship with was under the care of a psychiatrist at the time and not getting psychiatric care from Dr. Sayeed.
42. Ms. Haymond referred to additional relevant case law. She noted that Dr. Lasaleta was found guilty of a sexual boundary violation in 2020 and was given a 12-month suspension. In 2012 Dr. Healy was given a 16-month suspension after being found guilty of a sexual boundary violation.
43. Ms. Haymond also referred to a case from Ontario involving Dr. Peirovy. Dr. Peirovy was originally given a 6-month suspension after being found guilty of four sexual boundary violations. Council appealed due to changes in societal norms and legislation. Council argued that because of the change in societal norms cancellation should be imposed. The Court of Appeal upheld the 6-month suspension and stated this suspension was consistent with the prior precedents of the College prior to the legislative change.

## **V. DECISION**

44. After adjourning to consider the submissions from the parties, the Hearing Tribunal determined that the proposed sanction order was appropriate taking into account the factors in *Jaswal v. Newfoundland Medical Board*, (1996), 42 Admin L.R. (2d) 233. The Hearing Tribunal was also mindful that much deference should be given to joint submissions.
45. The Hearing Tribunal accepted the joint submission agreement as appropriate and was satisfied that the proposed sanctions serve the dual goals of protecting the public interest and remediation of Dr. Sayeed. The Hearing Tribunal did not find the agreed sanctions to be unfit, unjust, or unreasonable and did not find that the proposed sanctions would bring the administration of justice into disrepute.
46. The Tribunal was mindful of the deference that a decision maker should give to a joint submission on sanction and found that the proposed suspension and monetary fine were in the range of previous relevant case law.
47. The Hearing Tribunal found the proposed payment of a portion of the costs of the hearing appropriate. Dr. Sayeed was co-operative with the



College throughout the investigation of the complaint and by admitting to the allegations, saved much time and cost of a longer contested hearing.

48. The Tribunal agreed that Dr. Sayeed did show genuine remorse and took full responsibility for his actions. The reports in the Exhibit book from the Alliance assessment and PROBE report show Dr. Sayeed was cooperative with the conditions placed on him from the dealings he had with the CPSS regarding this case. The Tribunal also found that Dr. Sayeed was fully engaged into the rehabilitative activities of the assessments and from these activities he has made changes in his personal and professional life to address factors that may have contributed to his conduct in this case.
49. Further, the Tribunal deferred to the expertise of the various psychology and psychiatric professionals who evaluated and worked with Dr. Sayeed in the Alliance Assessment and PROBE programs. The Tribunal accepted the conclusion that Dr. Sayeed is felt to have taken full accountability for his actions and has gained significant insight into the events and the factors that led to him being vulnerable to acting as he did in this case. The Tribunal accepted the recommendations from the Alliance assessment with regards to risk reduction and mitigating the risk of future unprofessional conduct when Dr. Sayeed returns to medical practice. The Tribunal recognized these recommendations as being appropriate measures to be undertaken and found that mirroring these recommendations in the Alberta practice conditions for Dr. Sayeed as being appropriate measures to take to protect the public.
50. At the same time, the Tribunal does acknowledge that Dr. Sayeed's boundary violation is amongst the most egregious a physician can take. A sexual relationship with a vulnerable patient represents an extreme abuse of a patient's trust and the power imbalance that exists in every physician-patient relationship and brings harm to the integrity of the profession. As such, a firm and consistent sanction is warranted.
51. The Tribunal does acknowledge despite Dr. Sayeed's admission to his conduct and his full engagement and participation in activities to rehabilitate and learn from this event, his events did bring significant harm to his patient.
52. The Tribunal does understand that since the events took place prior to the enactment of Bill 21: *An Act to Protect Patients*, the current legislation does not apply and that the agreed sanction for Dr. Sayeed is based on relevant case law. The Tribunal agreed that the proposed sanction for Dr. Sayeed is consistent and in line with sanctions ordered in previous similar cases as outlined above.
53. However, the Tribunal is mindful of the duty the College has to protect the public. While it is satisfied that the sanction for Dr. Sayeed does serve the purpose of protecting the public while providing Dr. Sayeed

rehabilitation and a deterrent, the Tribunal placed very heavy reliance on the fact that the sanction proposed was agreed to by the parties and accordingly was required to apply significant deference. If there had not been a joint submission, the Hearing Tribunal may have considered a more significant sanction, notwithstanding that the events occurred prior to the passage of Bill 21. Accordingly, while the Hearing Tribunal was prepared to exercise deference, the accepted sanction for Dr. Sayeed is only intended to be applicable to the specific circumstance of this case. The Tribunal notes that future cases of sexual misconduct that occurred before the enactment of Bill 21 may not all be considered in the same light and a more significant penalty may be warranted depending on the circumstances. Factors specific to each case would be considered including but not limited to degree of the misconduct, previous discipline history of the regulated member and experience of the regulated member. While cancellation prior to the enactment of Bill 21 was not mandatory, cancellation of a member's registration and practice permit does remain an available option in the range of sanctions for sexual boundary violations regardless of when the event(s) occurred or when a specific complaint was made.

54. The Tribunal found Dr. Sayeed's case differed from previous cases that pre-dated Bill 21 where cancellation was ordered. Dr. Sayeed's boundary violation occurred with one patient over a relatively limited period of time. Additionally there was no psychotherapeutic aspect in the care Dr. Sayeed was providing his patient as she was getting psychiatric care from a psychiatrist at the time of the boundary violation.
55. Finally, the Hearing Tribunal also considered the challenges that regulators face trying to impose increased penalties for sexual misconduct that occurs prior to the enactment of Bill 21 that deviate from precedent cases. In *College of Physicians and Surgeons of Ontario v. Peirovy*, the Discipline Committee found a physician guilty of sexual misconduct and ordered a six-month suspension. The College appealed the penalty, arguing that revocation was appropriate in light of changing societal norms. The Divisional Court overturned the suspension, finding that a more significant response was warranted in light of changing societal norms, and ordered revocation. On further appeal, the Ontario Court of Appeal acknowledged the importance of precedents in determining the appropriate sanction, and restored the original six-month suspension.
56. While the Hearing Tribunal does not condone Dr. Sayeed's conduct and wishes to make it clear that sexual intimacy with a patient is an egregious breach of trust, for the reasons set out above, the Hearing Tribunal did not feel that it was appropriate to interfere with the Joint Submission Agreement.

## VI. ORDERS

Accordingly, the Hearing Tribunal accepts the Joint Submission Agreement and makes the following orders:

- a. Dr. Sayeed's practice permit shall be suspended for a period of 19 months and he shall receive credit for the time he has already been out of practice in Alberta since December 2018;
- b. Dr. Sayeed's practice permit shall be subject to the same conditions as are currently on his license to practice in Saskatchewan as outlined in the Certificate of Professional Conduct from the College of Physicians and Surgeons of Saskatchewan (CPSS) dated June 7, 2021.
- c. Dr. Sayeed shall participate in the College of Physicians and Surgeons of Alberta (CPSA) Physician Health Monitoring program (PHMP) through the coordination of the monitoring currently in place by the CPSS and Dr. Sayeed shall provide written consent for the CPSA PHMP to obtain information about Dr. Sayeed's ongoing treatment and participation in the CPSS monitoring program.
- d. Dr. Sayeed shall pay a fine of \$5000.00 within 30 days of the written decision of the Hearing Tribunal being issued.
- e. Dr. Sayeed shall be responsible for the two-thirds of the costs of the investigation and hearing, which may be paid by monthly installments over a 12-month period following the date of statement of costs provided to Dr. Sayeed by the Hearings Director.
- f. The Hearing Tribunal shall retain jurisdiction to determine any matter arising from the implementation or performance of the terms of the sanction order.

Signed on behalf of the Hearing Tribunal by the Chair:



Dr. Don Yee

Dated this 13<sup>th</sup> day of December, 2021.